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Patent
Case No.: 54388US067

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: WHEATLEY, JOHN A.

Application No.: 09/911532

Group Art Unit: 2872

Filed: July 24, 2001

Examiner: Ricky D. Shafer

Title: POLYMERIC INTERFERENCE FILM

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, DC 20231

CERTIFICATE OF MAILING
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12/5/02
Date

[Signature]
Signed by:

Dear Sir:

This is in response to the Office Action dated 11/05/2002, regarding the above-cited patent application. The shortened period for response falls on December 5, 2002.

Claims 30-40 are pending in the application. In the Office Action, a previous restriction requirement was withdrawn, and the pending claims were indicated to be subject to a new restriction requirement between the following two groups:

I. A multilayer interference or reflective film comprising alternating layers of at least first and second diverse polymeric materials having a refractive index mismatch in at least a first plane perpendicular to the film, so as to reflect light over a range of wavelengths, wherein at least one of the first or second materials comprises a polymer selected from the group of polyethylene naphthalate and a copolymer thereof, classified in class 359, subclass 589.

II. A multilayer interference or reflective film having at least first and second diverse polymeric materials, so as to reflect light having a first polarization, wherein at least one of the first or second materials comprises a polymer selected from the group of polyethylene naphthalate and a copolymer thereof, classified in class 359, subclass 500.

The new restriction requirement identifies claims 30, 30(32), 30(33), 30(34), and 30(35) as belonging to Group I, and claims 31, 31(32), 31(33), 31(34), 31(35), and 36-40 as belonging to Group II.

Restriction Election (with Traverse)

Applicants elect Group I of the restriction requirement *with traverse*.

Applicants make their election with traverse because the example given in the Office Action of the utility of Group I separate from that of Group II is flawed. The example states:

“In the instant case, invention I has separate utility such as a multilayer interference film without being polarization sensitive (i.e. without reflect light having a first polarization) See MPEP § 806.05(d).”

The example erroneously assumes that Group II is necessarily “polarization sensitive”. However, merely because the Group II films “reflect light having a first polarization” does not mean that they are polarization sensitive. That would depend on whether, or to what degree, those films reflect light of other polarizations. In that regard, the classification of Group II under subclass 500 (which is indented several times under subclass 483, “Polarization Without Modulation”) of class 359 is also submitted to be erroneous.

Applicants submit that the claims that correspond to the election are not only claims 30 and 30(32)-(35), but also claims 36-38 since they specify that light is reflected “over a range of wavelengths” as set forth in the Group I definition. In that regard, if the restriction is maintained, claims 36-38 can be considered linking claims. At the time any such claim is allowed, the restriction requirement must be withdrawn. See MPEP § 809.

Species

The Office Action also identified the following “patentably distinct species”:

- A) The refractive indices of the first and second diverse polymeric materials being substantially equal in one plane and different in another plane different from said one plane.
- B) The refractive indices of the first and second diverse polymeric materials being substantially different in one plane and different in another plane different from said one plane.

Species Election (without Traverse)

Applicants elect species B without traverse. The pending claims readable thereon are pending claims 30-37 and 39. Each of these claims is submitted to be generic to both cited species.

Conclusion

Applicants have elected Group I with traverse and species B without traverse for the reasons given.

No fees are believed to be due by submission of this paper. If this belief is in error, please charge any required fees to Deposit Account No. 13-3723. The Examiner is invited to contact the undersigned at the indicated telephone number with questions that can be resolved with a simple teleconference.

Respectfully submitted,

Dec. 4, 2002
Date

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